

Attorney Docket No. DRAK-001/00US

PATENT

Express Mail Label Number: EV778910621US

Date of Deposit: May 16, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to the Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 16, 2006.

By: Sherry Duncan Bitler  
Sherry Duncan Bitler

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Ronald N. DRAKE

Confirmation No.: 9231

Serial No.: 10/774,819

Examiner: I. C. CINTINS

Filed: 02/09/2004

Art Unit: 1724

FOR: CONTINUOUS SELECTIVE ION EXCHANGE PROCESS AND APPARATUS

### Mail Stop PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

### TRANSMITTAL

Enclosed are the following documents:

- ☒ [X] Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f));
- ☒ [X] Rescission of Previous Nonpublication Request and Notice of Foreign Filing;
- ☒ [X] Inventor Declaration; and
- ☒ [X] Return receipt postcard.

☒ [x] Petition Fee \$750.00

Total Fee due: \$750.00 [SMALL ENTITY STATUS HAS BEEN PREVIOUSLY ESTABLISHED]

☐ [ ] Check No. \_\_\_\_ in the amount of \$\_\_\_\_ for the total fee is attached.

☒ [X] Please charge \$750.00 to Deposit Account No. 50-1283 for the total fee. This paper is being submitted in duplicate.

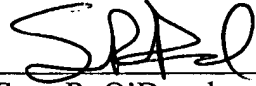
The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

COOLEY GODWARD LLP  
Attention: Patent Group  
The Bowen Building  
875 15<sup>th</sup> Street NW, Ste. 800  
Washington, DC 20005-2221  
Tel: (720) 566-4035  
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Respectfully submitted,

COOLEY GODWARD LLP

By:



Sean R. O'Dowd

Reg. No. 53,403

MAY 17 2006

DEC  
IPW



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Mail Stop Petitions  
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Alexandria, VA 22313

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR  
INTERNATIONAL FILING (37 CFR 1.137(f))**

Sirs:

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 USC 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL  
OF THIS APPLICATION UNDER 37 CFR 1.137(b).

Applicants hereby petition for revival of this application. The Commissioner is hereby authorized to charge petition fee of \$750.00 under 37 CFR 1.17(m) to Deposit Account No. 50-1283.

Along with this petition, Applicants have also included the required reply: a Rescission of Previous Nonpublication Request and a Notice of Foreign or International Filing. (35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed under a multinational international treaty (*e.g.*, filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed International Application is February 8, 2005.

The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Attached is a Declaration, incorporated herein by reference, containing statements from Ronald N. Drake, establishing unintentional delay.

In addition, in a good faith effort to advance the prosecution of this application, the following information is provided relative to the unintentional nature of the delay:

- Applicant, Ronald N. Drake, filed the above-identified application pro se on February 9, 2004;
- On February 9, 2004 Drake had no intention to file an International Application;
- On February 9, 2004, Drake filed a Nonpublication Request along with the above-identified application;
- Applicant's attorney began representing Applicant relative to patent prosecution matters in December 2004;
- Applicant's attorney filed an International (PCT) Application February 8, 2005;

- As of the date of the PCT filing, Applicant's attorney was unaware that the Nonpublication Request was filed;
- As of the date of the PCT filing, Drake had forgotten that the Nonpublication Request was filed;
- Applicant's attorney's own audit of the file during April 2006 led to the discovery that the Nonpublication Request was filed and the required Rescission of Previous Nonpublication Request was not filed.

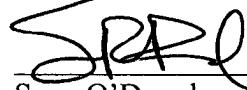
Based on the foregoing information, Applicant respectfully requests that this application be revived. The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

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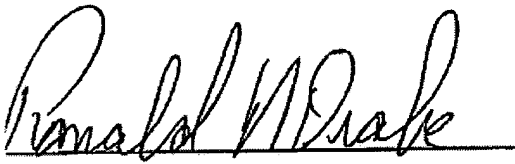
  
Sean O'Dowd  
Reg. No. 53,403



## INVENTOR DECLARATION

1. I am the inventor for U.S. Patent Application No. 10/774,819 entitled "Continuous Selective Ion Exchange Process and Apparatus" (the '819 application").
2. On February 9, 2004, I completed Form 10-7: Nonpublication Request and submitted it with the '819 application.
3. I affirm that, at the time I executed the Nonpublication Request, my certification that the "attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing" was true and correct.
4. Since February 9, 2004, I have been working diligently to demonstrate the subject process and apparatus in full-scale field trials that I believe will lead to commercialization of the technology.
5. As part of the demonstration and commercialization efforts, I became aware that there is a need and potential market for the process in one or more foreign countries. This new information has prompted me to consider the possibility of filing for foreign patent protection.
6. I had entirely forgotten about the "Nonpublication Request," and was informed on April 27, 2006 that it presented an impediment to my ability to file for foreign patents.
7. Therefore, as allowed by the "rescission" paragraph in Form 10-7, I wish to rescind the nonpublication request for my patent application entitled "Continuous Selective Ion Exchange Process and Apparatus."

8. I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

A handwritten signature in cursive script, reading "Ronald N. Drake", written over a horizontal line.

Date 05/12/06

Ronald N. Drake